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October 28, 2011

Jeff S. Jordan, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6441

Dear Mr. Jordan:

We are counsel to the Democratic Congressional Campaign Committee ("DCCC"). We write in response to your letter of September 27, 2011, indicating that, in the course of carrying out its supervisory responsibilities, the Commission obtained information that the DCCC may have paid for mailings that lacked the disclosures required by the Federal Election Campaign Act (the "Act") and Commission rules. But the letter provides no factual basis for this allegation, and the facts show that the DCCC did not pay for the mailings. The Commission should find that there is no reason to believe that the DCCC violated the Act or Commission rules, and promptly close this matter.

The Commission may find reason to believe only where there are facts that, if true, would describe a violation of the Act. See 11 C.F.R. § 111.4; Commissioners Mason, McDonald, Sandstrom, Smith, Thomas and Wold, Statement of Reasons, MUR 5141; Statement of Reasons, MUR 4960. But the September 27 letter presents no facts that suggest that the DCCC paid for the mailings. The 2010 general election in Virginia's Fifth Congressional District was one of the most competitive and expansive of the 2010 election cycle, and attracted the interest of dozens of outside organizations.¹ The DCCC had no more reason than any of these other groups to pay for the mailings.

¹ Commission records show that over two dozen outside groups spent over \$5 million in the VA-05 election, making it one of the top ten House races for outside-group activity during the 2010 election cycle. See <http://www.opensecrets.org/outsidespending/summary.php?cycle=2010&disp=R&pty=A&type=A>. Even this spending would not encompass mailings like these, which avoided words of express advocacy and did not qualify as electioneering communications. Indeed, because the mailings avoided express advocacy, a non-political committee

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To the contrary, the facts demonstrate that the DCCC did *not* pay for these mailings:

First, in the ordinary course of business, the DCCC keeps records of all communications that it pays for or distributes. After a careful review, the DCCC identified no records corresponding to these mailers. *See* Mark Declaration ¶¶ 2, 3.

Second, in the 2010 general election, the DCCC – like many other groups – did pay for communications identifying candidates for the U.S. House of Representatives in Virginia's Fifth Congressional District. *Id.* ¶ 6. However, these communications contained the disclaimers required by the Act and Commission rules. *Id.* The DCCC has a regular process whereby it reviews all its public communications for compliance with the Act, and has no reason to think there was any deviation in this case. *Id.* ¶ 5.

In short, the facts demonstrate that the DCCC did not pay for the mailer, and there is no evidence that indicates otherwise. The Commission should find that there is no reason to believe that the DCCC violated the Act, and dismiss this matter immediately. *See* Commissioners Petersen, Bauerly, Hunter, McGahn, and Weintraub, Statement of Reasons, MUR 6208.

Very truly yours,



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sponsor could have paid for them legally without any disclaimer at all. *See* 2 U.S.C. § 441d (limiting the disclaimer requirement to public communications paid for by political committees, and those paid for by "any person" that expressly advocate election or defeat, solicit contributions, or qualify as electioneering communications).